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Comments on the Interim Report of the Independent Inquiry Committee

Introduction

It is, perhaps, a tribute to the freedom of the press introduced to Iraq in the wake of "Operation Iraqi Freedom" that an Iraqi newspaper should have been able to expose a scandal that had international reverberations. The "Oil for Food" scandal was made public by the liberal Iraqi daily *al-Mada's* publication of a list of 270 individuals and entities who had received vouchers providing for the purchase of oil below market price¹. The Middle East Media Research Institute (MEMRI) translated the article and brought it to public attention in the United States and elsewhere, culminating in investigations by various committees of the US Congress and other government agencies.²

The United Nations was made responsible for administration of the "Oil for Food Program" (OFF) under Security Council resolution No. 986 (1995). The procedures and mechanics for administering the OFF are rooted in a Memorandum of Understanding between the Government of Iraq and the United Nations dated May 20, 1996. The United Nations proceeded to administer the OFF by creating a special office on October 15, 1997, known as the Office of the Iraqi Programme (OIP) and designated MR, Benon Sevan, a Cypriot, as its Executive Director.

After denying any wrongdoing, and after much foot dragging following the publication of the list of 270, which included the name of Mr. Sevan, the United Nations appointed a high-level committee to look into the mismanagement and corruption associated with the program and the possible involvement of its own senior staff in corrupt practices. The Committee is chaired by Mr. Paul A. Volcker and includes as members Richard J. Goldstone and Mark Pieth.

The Interim Report

The Committee issued an interim report on February 3, 2005. The report addressed, with various levels of comprehensiveness and finality, four key issues:

- The Initial Procurement of United Nations Contractors (1966)
- Benon Sevan and Oil Allocations
- Internal Programme Audits
- Management of the Programme's Administrative Accounts (2.2%)

There are other issues which remain under on-going investigation, one of the most critical of which is the employment of Kojo Annan, the son of Kofi Annan, the Secretary General of the United Nations by a Swiss consulting firm, Contecta, while the firm was

¹ Al-Mada (Baghdad), January 25, 2004

² Al-Mada (Baghdad), January 25, 2004

under contract with OIP. A second critical issue that remains to be addressed is the role played by the United Nations-related agencies as suppliers of goods and commodities, particularly to the three Kurdish governorates in the north of Iraq. The Kurdish press has alleged that these UN-related agencies supplied sub-standard goods and commodities, particularly food grains, and that they allowed the Iraqi Intelligence Services (Mukhabarat) to penetrate their offices at will.

"The Initial Procurement of United Nations Contractors"

This chapter of the Committee report deals with the selection of three major UN contractors, namely *Banques Nationale de Paris*, *Saybolt Eastern Hemisphere BV*, and *Llyod's Register Inspection Ltd*.

The report has found that the selection of these three entities deviated "from the established financial and procurement rules...of the United Nations." p110. There is evidence of political intervention by member countries of the Security Council in favor of the companies of their respective countries; however, there is no evidence of corruption although the role of the previous Secretary General of the UN, Boutros Boutros-Ghali in the selection of the French bank, BNP, remains to be clarified.

"Benon Sevan's Oil Allocations"

In many respects, Benon Sevan, the Executive Director of OIP, has emerged as the central focus in the scandal and has received considerable negative criticism by the Committee. The allegations against Mr. Sevan are that he used his high position and influence vis-à-vis the Iraqi government to secure nine lucrative oil allocations for his friend Fakhri Abdelnour, the owner of AMEP and a relative of the former UN Secretary General Boutros-Ghali. Although only six allocations for a total of 7.3 million barrels were lifted, they generated a quick net income of \$1.5 million to AMEP (p.152). Between 1999 and 2003. Mr. Sevan's bank account was credited with four money transfers totaling \$160,000. Mr Sevan has claimed that these money transfers were made by his now-deceased aunt to "defray expenses of her annual stay" with him and his family in New York. (p.161)

The report cites strong forensic evidence of Mr. Sevan's influence peddling. But even if such evidence were missing, the notations by the Iraqi oil minister that oil had been allocated to Mr. Sevan or to his friend Abdelnour would be sufficient to sustain the charges against him, for the following reasons:

First, under Saddam Hussein, Iraq was a totalitarian regime. The experience of such regimes in the first half of the last century shows precise record keeping even for the most horrible of crimes. By keeping a meticulous record, government employees shield themselves against accusations of insubordination or malfeasance.

Second, Mr. Sevan was an important figure for the Iraqi regime, and there was no reason to believe that any Iraqi official would try to "frame" him. After all, no one at the time of

the transactions suspected that the records would become public. Two statements by Mr. Sevan indicate his sympathy with Iraq's frequent protest that there were too many "holds" on contracts (primarily by the United States and the United Kingdom). In one letter, Mr. Sevan claimed "to fully share the frustrations of the distinguished Minister of Oil." He promised to "continue our efforts to further reduce the number of holds." (p.145). In the month following his return from Baghdad, he stated to the Security Council on August 16, 2000, "I feel duty bound to draw the attention of the Council to the unacceptably high level of holds placed on applications." (p.146.)

Third, there is absolutely no evidence of forgery regarding the list published by *al-Mada*, which was later confirmed by Mr. Duelfer.

Mr. Sevan faces an uncertain future. If the transfer of funds to his account can be proven to have originated from an illicit source, he will have to deal with the implications and consequences in terms of his income tax statements.

Internal Program Audits

The report makes two significant points regarding internal audit: First, there was "a lack of focus on oil purchase and humanitarian supply contracts." (p.182). Second, the report found that "the resources committed to the Programme were inadequate."

On the matter of audit, however, I should bring to the attention of the Congressional Committee a letter authored by Mr. Shashi Tharoor, the United Nations Under-Secretary General for Communications and Public Information, and published in the Wall Street Journal on February 18, 2004, a month after the list was published by *al-Mada* (and, subsequently, by MEMRI) and almost a whole year before the Committee's interim report was issued. Mr. Tharoor states in that letter, "The program itself was managed strictly within the mandate given to it by the Security Council and was subject to nearly 100 different audits, external and internal." I repeat, Mr. Tharoor says, "one hundred different times" between 1998 and 2003. Further, according to Mr. Tharoor, the Secretary General had asserted that these reviews "produced no evidence of wrongdoing by the U.N. official [Mr. Sevan]."

This letter raises some highly disturbing questions:

First, was Mr. Tharoor, a very senior official at the U.N., trying knowingly and deliberately to mislead the public or, at least, to deflect the voices being raised in criticism of the performance of the U.N.?

Second, who authorized the exoneration of Mr. Sevan even before the issues were properly examined?

Third, who counted the so-called 100 audits referred to in Mr. Tharoor's letter?

Fourth, was Mr. Sevan behind the letter?

Fifth, did the Secretary General approve of the letter or was he, at least, made aware of it?

Sixth, what was the reason for the Secretary General to conclude that there was no wrongdoing by the U.N. official?

Seventh, was Mr. Tharoor himself investigated by the Committee to establish the sources of this misleading information? (In fact, Mr. Tharoor's name does not appear in the glossary of individuals interviewed by the Committee, and it should).

Management of the Programme's Administrative Account (2.2%)

Upon being assigned to administer the Oil for Food Program, the UN established a special account referred to as ESD (Escrow Account for operational and administrative costs) to manage the proceeds from the 2.2 percent of the total oil revenues earmarked for the program's administration. Eventually, \$1.4 billion was deposited in the ESD Account, from the sale of \$62.4 billion worth of Iraqi oil.

Expenditures charged against the ESD account were estimated at approximately \$910 million, of which \$482 million, or 53 percent, was transferred to the UN-related agencies involved with the program (p.37). The Committee found no commingling of funds and commended the UN for maintaining separate accounts. (p.40) The Committee has not, however, studied the use and application of funds by the UN-related agencies and, based on the personal experience of this speaker, special attention must be paid to the **culture of overheads** which pervades many UN agencies in their utilization of off-budget funds.

Estimates of Illicit Iraqi Income

Almost as an afterthought, the Committee offers estimates of illicit funds received by the Saddam regime under OFF ranging from \$9,583 million estimated by the Coalition for International Justice to an ostensibly high figure of \$21,149 million offered by the US Senate PIC. (p.41)

Whatever is the final figure, there is consensus that much oil was smuggled to Jordan, Turkey and Syria. The estimated value of the smuggled oil is \$1.6 billion, \$2.1 billion and \$2.2 billion, respectively. Further investigation must address the following questions:

First, what was the rate of discount offered by the Saddam regime to the recipients of the smuggled oil?

Second, how did these governments pay Iraq, and into what accounts was the money deposited?

Third, were the payments for oil recorded in the countries' current accounts?

Fourth, in what banks were the payments deposited and who was authorized to sign withdrawal requests from these accounts?

Fifth, was the OIP aware of the oil smuggling and did it discuss it with the Government of Iraq?

Implications for the United Nations

The problems with the Oil for Food Program underscore the lack of experience and the limited capacity of a large international bureaucracy, such as the United Nations, to handle a program of such magnitude. As a result, the program was poorly administered and, indeed, it would have fared even worse were it not that the United States and the United Kingdom had placed hundred of “holds” on contracts deemed to be inappropriate, such as contracts for luxury goods, grossly overpriced contracts, or contracts to supply goods suspected of having a double usage—civilian and military.

Iraq complained bitterly over the years about these “holds,” which, they alleged, were inflicting harm on the Iraqi people, particularly young children. Mr. Sevan went out his way to support the Iraqi claims by criticizing the efforts of the U.S. and the U.K. to put the brakes on what they rightly perceived as a humanitarian program gone awry.

However, the US and the UK could have done more. For example, they could have intercepted with their fleets in the Gulf the big oil tankers carrying illegal shipments of oil. Instead, they chose to intercept little boats. And during all this time, the United States remained one of the largest buyers of Iraqi oil.

Lack of Budget Discipline

The lack of budget discipline by the UN is endemic because of a voting system that offers equal vote to every member regardless of its level of contribution to the UN budget. An argument can be made and, indeed, has often been made, that the United Nations must respect the sovereignty of each of its members as being equal. This argument would be valid with regard to voting and political, economic and social matters. It cannot be defended with regard to determining how UN resources, derived from special assessments, should be disposed of. It is quite absurd that the United States should be left defending its position vis-à-vis a hundred other countries whose combined contributions may not match hers.

The UN should consider adopting a **weighted voting** system such as that which has long governed the Bretton Woods institutions, wherein each member country has a vote commensurate with its contribution to the capital of the World Bank and the International Monetary Fund. A two-tier voting system at the UN, one on budgetary matters, based on

weighted voting and one of **equal sovereignty** for everything else would serve to introduce financial discipline into the UN – a change that is a long overdue.³

Ms. al-Suhail at the State of the Union Address

In addition to the corruption on which the report focuses, there have recently emerged some sinister dimensions to the OFF.

In the course of his State of the Union address on February 2, President George W. Bush introduced *Ms. Safia Taleb al-Suhail*, who is a leader of the Iraqi Women's Political Council and whose father was assassinated by agents of Saddam Hussein. On February 7, in *al-Mada*, the daily which first published the list of the oil coupon recipients, there was an article by Mr. Bakhtiar Amin, Iraq's Interim Minister of Human Rights and Ms. al-Suhail's husband, stating, *inter alia*, that the murderer of Ms. al-Suhail's father Sheikh Taleb al-Suhail was Lebanese national George Dijerian who received a voucher for 7 million barrels for his criminal action.⁴ This episode raises a whole set of new questions regarding the misuse of the Oil for Food Program (OFF) by Saddam Hussein to finance terrorist organizations and terrorist activities -- matters which still must be looked into.

³ The author was given less than 48 hours to prepare this report and there was not enough time to articulate any of these ideas in a comprehensive manner although the direction they offer is quite obvious

⁴ Al-Mada, February 7, 2005